United Nations A/HRC/AC/21/2

General Assembly

Distr.: General
7 September 2018

Original: English

**Human Rights Council**
**Advisory Committee**
**Twenty-first session**
6–10 August 2018
Agenda item 4
**Report of the Advisory Committee on its twenty-first session**

# Report of the Advisory Committee on its twenty-first session*

*Rapporteur*: Imeru Tamrat Yigezu

* The annexes to the present report are reproduced as received.

GE.18-14873(E)

*1814873*

Please recycle

# Contents


| | | Page |
|---|---|---|
| I. | Action taken by the Advisory Committee at its twenty-first session | 3 |
| II. | Adoption of the agenda and organization of work | 8 |
| | A. Opening and duration of the session | 8 |
| | B. Composition of the Advisory Committee | 8 |
| | C. Attendance | 8 |
| | D. Meetings | 8 |
| | E. Adoption of the agenda | 9 |
| | F. Organization of work | 9 |
| III. | Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions and currently under consideration | 9 |
| IV. | Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007, and of section III of the annex to Human Rights Council resolution 16/21 of 25 March 2011 | 10 |
| | A. Review of methods of work | 10 |
| | B. Agenda and annual programme of work, including new priorities | 10 |
| | C. Appointment of members of the Working Group on Communications | 11 |
| V. | Report of the Advisory Committee on its twenty-first session | 11 |
| Annexes | | |
| I. | Documents issued for the twenty-first session of the Advisory Committee | 12 |
| II. | List of speakers | 13 |
| III. | Research proposal | 15 |
| IV. | Mainstreaming gender equality and ensuring gender parity in the Advisory Committee | 19 |

# I. Action taken by the Advisory Committee at its twenty-first session

## 21/1. Activities of vulture funds and their impact on human rights

*The Human Rights Council Advisory Committee*,

*Recalling* Human Rights Council resolution 34/3 of 23 March 2017, in which the Council took note with appreciation of the progress report of the Advisory Committee on the activities of vulture funds and their impact on human rights,[1] and requested the Committee to present a final report thereon to the Council at its thirty-ninth session for its consideration,

*Recalling also* Human Rights Council resolution 37/11 of 22 March 2018, in which the Council requested the Advisory Committee to complete the report and to submit it to the Council at the forty-first session,

*Recalling further* that, at its nineteenth session, the Advisory Committee established a drafting group, currently composed of Ibrahim Abdulaziz Alsheddi, Mario Luis Coriolano (Chair), Ion Diaconu, Mikhail Lebedev and Jean Ziegler (Rapporteur), and Mohamed Bennani,

1. *Notes* that the drafting group and the Advisory Committee held a meeting to discuss the topic;

2. *Requests* the drafting group to present a draft final report to the Advisory Committee at its twenty-second session, taking into account new developments and relevant input received with a view to submitting the final report to the Human Rights Council at its forty-first session.

*9th meeting*
*10 August 2018*

## 21/2. Negative effects of terrorism on the enjoyment of human rights

*The Human Rights Council Advisory Committee*,

*Recalling* Human Rights Council resolution 34/8 of 23 March 2017, in which the Council requested the Advisory Committee to conduct a study and prepare a report on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms, with a particular focus on economic, social and cultural rights, including as a result of diverting foreign direct investment, reducing capital inflows, destroying infrastructure, limiting foreign trade, disturbing financial markets, negatively affecting certain economic sectors and impeding economic growth, and to recommend actions to be taken by Governments, United Nations human rights mechanisms, regional and international organizations and civil society organizations in this regard, and to present the report to the Council at its thirty-ninth session, to be discussed during the interactive dialogue,

*Recalling also* that, at its nineteenth session, the Advisory Committee established a drafting group, currently composed of Lazhari Bouzid, Ion Diaconu, Karla Hanania de Varela, Ludovic Hennebel, Mikhail Lebedev, Xinsheng Liu, Ajai Malhotra, Mona Omar (Rapporteur), Katharina Pabel (Chair) and Elizabeth Salmón, and that, at its twenty-first session, Ms. Hanania de Varela was appointed as the new Chair,

*Noting* that, at its thirty-eighth session, the Human Rights Council decided to extend the time for the Advisory Committee to complete the study for submission to the Council at its forty-second session,

1. *Takes note* of the progress report on the negative impact of terrorism on the enjoyment of human rights submitted by the drafting group at its twenty-first session;

[1] A/HRC/33/54.

2. *Decides* to address a note verbale to Member States, international and regional organizations, national human rights institutions and non-governmental organizations in which it requests them to submit, by 30 November 2018, focused input on the section of the study containing recommendations on the effects of terrorism on economic, social and cultural rights and on procedures for protecting civilians, in particular vulnerable groups, from the effects of terrorism;

3. *Requests* the members of the drafting group to submit their written comments before the end of December 2018 in order to be able to finalize the study and to submit it to the Advisory Committee at its twenty-second session, taking into account the discussions held at the present session and the input received on the above-mentioned note verbale, with a view to submitting the final study to the Human Rights Council at its forty-second session.

*9th meeting*
*10 August 2018*

## 21/3. Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights

*The Human Rights Council Advisory Committee,*

*Recalling* Human Rights Council resolution 34/11 of 23 March 2017, in which the Council requested the Advisory Committee to conduct a study, in continuation of the study requested by the Council in its resolution 31/22 of 24 March 2016, on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, while completing the necessary legal procedures, and in accordance with national priorities, with a view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development, contributing to the enhancement of the promotion of human rights and in accordance with obligations under international human rights law, and to submit the requested study to the Council at its thirty-ninth session,

*Recalling also* that the Human Rights Council, in its resolution 34/11, also requested the Advisory Committee, when preparing the above-mentioned study, to seek further views and the input of Member States, relevant international and regional organizations, United Nations bodies, including the Office of the United Nations High Commissioner for Human Rights, and the United Nations Office on Drugs and Crime, national human rights institutions and non-governmental organizations and other relevant stakeholders in order to finalize the above-mentioned study,

*Recalling further* that, at its nineteenth session, the Advisory Committee established a drafting group currently composed of Ibrahim Abdulaziz Alsheddi, Mario Luis Coriolano, Mikhail Lebedev, Mona Omar, Changrok Soh, Jean Ziegler, Ludovic Hennebel, Ajai Malhotra (Chair) and Dheerujlall Baramlall Seetulsingh (Rapporteur),

*Noting* that, at its thirty-eighth session, the Human Rights Council decided to extend the time for the Advisory Committee to complete the study so that it is submitted to the Council at the forty-second session,

1. *Takes note* of the draft preliminary outline study by the drafting group at its twenty-first session;

2. *Requests* the drafting group to recirculate the questionnaire to seek the views of States, as appropriate, relevant international and regional organizations, national human rights institutions and non-governmental organizations and other stakeholders that did not respond to the questionnaire, and to invite them to provide input concerning names of recognized experts, concrete data, statistics, best practices and major challenges in the utilization of non-repatriated illicit funds with a view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development, in accordance with paragraph 31 of Human Rights Council resolution 34/11;

3. *Also requests* the drafting group, taking into account the discussions held at the present session and questionnaire inputs, to submit a final report to the Advisory Committee

at its twenty-second session with a view to submitting the final report to the Human Rights Council at its forty-second session.

*9th meeting*
*10 August 2018*

## 21/4. Contribution of development to the enjoyment of human rights

*The Human Rights Council Advisory Committee*,

*Recalling* Human Rights Council resolution 35/21 of 22 June 2017, in which the Council requested the Advisory Committee to conduct a study on the ways in which development contributes to the enjoyment of all human rights by all, in particular on best experiences and practices, and to submit the report to the Council before its forty-first session,

*Recalling also* that, at its nineteenth session, the Advisory Committee established a drafting group, currently composed of Mohamed Bennani, Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev (Rapporteur), Xinsheng Liu (Chair), Ajai Malhotra, Dheerujlall Baramlall Seetulsingh, Changrok Soh, Imeru Tamrat Yigezu and Jean Ziegler,

1. *Takes note with appreciation* of the replies received to the questionnaire recirculated after the discussion held at the twentieth session of the Committee, submitted by 16 States, 11 national human rights institutions and three non-governmental organizations;

2. *Takes note* of the draft report prepared by the Rapporteur, which integrates the replies to the questionnaire and the relevant views of States, national human rights institutions and non-governmental organizations concerning best experiences and practices of contribution of development to the enjoyment of human rights, as well as challenges, conclusions and recommendations drawn from such experiences and practices;

3. *Notes* that the drafting group held a meeting to discuss the topic;

4. *Requests* the drafting group to submit the study to the Advisory Committee at its twenty-second session with a view to submitting the report to the Human Rights Council at its forty-first session, taking into account the new input received following the discussion at the current session of the Committee.

*9th meeting*
*10 August 2018*

## 21/5. National policies and human rights

*The Human Rights Council Advisory Committee*,

*Recalling* Human Rights Council resolution 35/32 of 23 June 2017, in which the Council requested the Advisory Committee to prepare a study that could help States to implement the 2030 Agenda for Sustainable Development by integrating human rights into national policies on the basis of a compilation prepared by the United Nations High Commissioner for Human Rights, and to present it within its regular reporting cycle to the Council at its forty-fifth session, on the occasion of the fifth anniversary of the adoption of the 2030 Agenda,

*Recalling also* that, at its nineteenth session, the Advisory Committee established a drafting group, currently composed of Mario Luis Coriolano, Ion Diaconu (Rapporteur), Karla Hananía de Varela, Ludovic Hennebel, Ajai Malhotra, Kaoru Obata, Mona Omar, Katharina Pabel, Elizabeth Salmón, Dheerujlall Baramlall Seetulsingh and Changrok Soh (Chair),

1. *Welcomes and takes note* of the updated outline of the study elaborated by the drafting group;

2. *Welcomes* the participation of a member of the drafting group in the second meeting of the Forum of the Countries of Latin America and the Caribbean on Sustainable

Development and of the Rapporteur in the meeting of the 2018 high-level political forum on sustainable development;

3. *Notes* that the drafting group and the Advisory Committee held meetings to discuss the topic, including the oral reports delivered before the forums on sustainable development by the Rapporteur and a member of the drafting group;

4. *Decides* to continue the exchange of views on this subject with external experts and members of the Office of the United Nations High Commissioner for Human Rights, in order to prepare the study in accordance with Human Rights Council resolution 35/32;

5. *Invites* the members of the drafting group to continue intersessional discussions and their participation in and contribution to regional consultations on the implementation of the 2030 Agenda for Sustainable Development, and to inform the Advisory Committee at its twenty-second session on its activities relating to the preparation of the report to be submitted to the Human Rights Council at its forty-fifth session;

6. *Requests* the Office of the High Commissioner to inform the Advisory Committee about all documents prepared by United Nations bodies and other international organizations on the different issues concerning the implementation of the 2030 Agenda when they become available.

*9th meeting*
*10 August 2018*

## 21/6. A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

*The Human Rights Council Advisory Committee*,

*Recalling* General Assembly resolution 72/157 of 19 December 2017, in which the Assembly requested the Human Rights Council to continue to pay attention to the situation regarding racial equality in the world, and in that regard requested the Council, through the Advisory Committee, to prepare a study on appropriate ways and means of assessing the situation, while identifying possible gaps and overlaps,

1. *Designates* the Advisory Committee members Ajai Malhotra, Ion Diaconu, Mona Omar, Hanania de Varela, Mikhail Lebedev, Dheerujlall Seetulsingh, Ludovic Hennebel and Elizabeth Salmón as members of the drafting group to prepare the study;

2. *Notes* that the drafting group appointed Mr. Seetulsingh as Chairperson and Ludovic Hennebel as Rapporteur;

3. *Also notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic;

4. *Welcomes* the active participation of external experts in the discussion and the very rich exchange of views, and notes that the discussion has provided valuable input that will assist the drafting group in its task;

5. *Requests* relevant bodies and mechanisms, such as the Working Group of Experts on People of African Descent, the Special Rapporteur on extreme poverty and human rights, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, the Ad Hoc Committee on the Elaboration of Complementary Standards, relevant treaty bodies, such as the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, the Durban follow-up mechanisms, including the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, and the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action to provide input and further collaboration;

6. *Requests* the drafting group to submit a preliminary outline of the study to the Advisory Committee at its twenty-second session;

7. *Encourages* stakeholders to contribute to the work already under way.

*9th meeting*
*10 August 2018*

### 21/7. The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights

*The Human Rights Council Advisory Committee*,

*Recalling* Human Rights Council resolution 37/23 of 23 March 2018, in which the Council requested the Advisory Committee to conduct a study on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights,

1. *Designates* the Advisory Committee members Mohamed Bennani, Lazhari Bouzid, Ion Diaconu, Ludovic Hennebel, Xinsheng Liu, Ajai Malhotra, Kaoru Obata, Elizabeth Salmón, Dheerujlall Seetulsingh, and Changrok Soh as members of the drafting group to prepare the study;

2. *Notes* that the drafting group elected Xinsheng Liu as Chairperson and Lazhari Bouzid as Rapporteur;

3. *Also notes* that the drafting group and the full Advisory Committee held meetings to discuss the topic;

4. *Welcomes* the active participation of all stakeholders in the discussion and the exchange of views, and notes that the discussion has provided valuable input that will assist the drafting group in its task;

5. *Decides* to address a note verbale to Member States and other stakeholders, including international organizations, national human rights institutions and non-governmental organizations, in which it requests them to submit, by 30 November 2018, inputs on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, particularly concrete data, statistics, best practices and major challenges, in order to integrate the information into the study;

6. *Requests* the drafting group to present a preliminary outline of the study to the Advisory Committee at its twenty-second session, taking into account the replies received pursuant to the above-mentioned note verbale, and to submit the draft study to the Advisory Committee at its twenty-third session;

7. *Encourages* stakeholders to contribute to the work already under way.

*9th meeting*
*10 August 2018*

## II. Adoption of the agenda and organization of work

### A. Opening and duration of the session

1. The Human Rights Council Advisory Committee, established pursuant to Human Rights Council resolution 5/1 of 18 June 2007, held its twenty-first session at the United Nations Office at Geneva from 6 to 10 August 2018. The session was opened by the Chair of the twenty-first session, Katharina Pabel.

2. At its 1st meeting, on 6 August 2018, the Vice-President of the Human Rights Council, Juan Eduardo Eguiguren, made an opening statement.

3. At the same meeting, the Chief of the Universal Periodic Review Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR) made a statement on behalf of the High Commissioner.

4. Also at the same meeting, participants observed a minute of silence for the victims of human rights violations around the world.

## B. Composition of the Advisory Committee

5. The membership of the Advisory Committee is as follows:[2] Ibrahim Abdulaziz Alsheddi (Saudi Arabia, 2018); Mohamed Bennani (Morocco, 2020); Lazhari Bouzid (Algeria, 2019); Mario Luis Coriolano (Argentina, 2018); Ion Diaconu (Romania, 2020); Karla Hanania de Varela (El Salvador, 2019); Ludovic Hennebel (Belgium, 2020); Mikhail Lebedev (Russian Federation, 2019); Xinsheng Liu (China, 2019); Ajai Malhotra (India, 2020); Kaoru Obata (Japan, 2019); Mona Omar (Egypt, 2019); Katharina Pabel (Austria, 2018); Elizabeth Salmón (Peru, 2020); Dheerujlall Baramlall Seetulsingh (Mauritius, 2020); Changrok Soh (Republic of Korea, 2020); Imeru Tamrat Yigezu (Ethiopia, 2018); and Jean Ziegler (Switzerland, 2019).

## C. Attendance

6. The session was attended by members of the Advisory Committee and observers for States Members of the United Nations, as well as non-governmental organizations.

## D. Meetings

7. At its twenty-first session, the Advisory Committee held nine plenary meetings and four closed meetings. Private meetings were held by the drafting groups on the activities of vulture funds and their impact on human rights, the negative effects of terrorism on the enjoyment of human rights, the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights, the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, national policies and human rights, and the contribution of development to the enjoyment of human rights. The Committee also held private meetings with the Human Rights Council Bureau and with regional and political group coordinators. In addition, it held a public meeting with representatives of non-governmental organizations.

8. At the 4th meeting, on 7 August 2018, the Advisory Committee held a commemorative event and a panel discussion entitled "How research leads to action" to mark the tenth anniversary of the Advisory Committee. During the event, a brochure, and a short video prepared by students of Ludovic Hennebel, on the Committee were presented. Kaoru Obata, Mario Luis Coriolano, Katharina Pabel and Imeru Tamrat Yigezu made statements as panellists in the discussion. Elizabeth Salmón moderated the discussion, in which the other members of the Advisory Committee and observers participated.

## E. Adoption of the agenda

9. At its 1st meeting, on 6 August 2018, the Advisory Committee adopted its agenda (A/HRC/AC/21/1) (for the list of documents issued for the twenty-first session, see annex I).

## F. Organization of work

10. At its 1st meeting, on 6 August 2018, the Advisory Committee adopted the draft programme of work prepared by the secretariat.

---

[2] Years in parentheses indicate the expiry of the terms of office (terms of office end on 30 September).

# III. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions and currently under consideration

## 1. Regional arrangement for the promotion and protection of human rights

11. At its 1st meeting, on 6 August 2018, the Advisory Committee held, pursuant to Human Rights Council decision 32/115, a discussion on regional arrangement for the promotion and protection of human rights. The Rapporteur of the drafting group, Changrok Soh, presented the final report (A/HRC/39/58), to be submitted to the Human Rights Council for consideration at its thirty-ninth session. During the ensuing discussion, statements were made by members of the Committee (see annex II). The Rapporteur of the drafting group subsequently made concluding remarks.

## 2. A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

12. At its 2nd meeting, on 6 August 2018, the Advisory Committee held, pursuant to General Assembly resolution 72/157, a discussion on the situation regarding racial equality in the world, and on ways and means of assessing the situation while identifying possible gaps and overlaps. In this context, the representative of South Africa gave a presentation on the issue. During the ensuing discussion, statements were made by members of the Committee and a representative of observer States (see annex II).

## 3. The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights

13. At its 2nd meeting, on 6 August 2018, the Advisory Committee held, pursuant to Human Rights Council resolution 37/23, a discussion on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights. In this context, the representative of China gave a presentation on the issue. During the discussion, statements were made by members of the Committee and a representative of an observer for an intergovernmental organization (see annex II).

## 4. National policies and human rights

14. At its 3rd meeting, on 7 August 2018, the Advisory Committee held, pursuant to Human Rights Council resolution 35/32, a discussion on national policies and human rights and the Sustainable Development Goals. The Rapporteur of the drafting group, Ion Diaconu, informed the other members of the Committee about his participation in meetings organized by the high-level political forum on sustainable development, held in New York from 16 to 19 July 2018, and presented an updated preliminary outline. Mario Luis Coriolano gave a presentation on his participation in the session of the Forum of the Countries of Latin America and the Caribbean on Sustainable Development. During the ensuing discussion, statements were made by members of the Committee and a representative of an observer State (see annex II).

### 5. Activities of vulture funds and their impact on human rights

15. At its 6th meeting, on 8 August 2018, the Advisory Committee held, pursuant to Human Rights Council resolution 34/3, a discussion on the activities of vulture funds and their impact on human rights. During the ensuing discussion, statements were made by members of the Committee (see annex II).

### 6. Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights

16. At its 6th meeting, on 8 August 2018, the Advisory Committee held, pursuant to Human Rights Council resolutions 31/22 and 34/11, a discussion on the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights. The Rapporteur of the drafting group, Dheerujlall Baramlall Seetulsingh, presented the preliminary structure of the study. During the ensuing discussion, statements were made by members of the Committee and representatives of observer States (see annex II). The Rapporteur of the drafting group subsequently made concluding remarks.

## IV. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007, and of section III of the annex to Human Rights Council resolution 16/21 of 25 March 2011

### A. Review of methods of work

17. On 9 August 2018, the Advisory Committee, in closed meetings, held a discussion on its methods of work.

### B. Agenda and annual programme of work, including new priorities

18. At its 8th meeting, on 9 August 2018, the Advisory Committee held a discussion on reflection papers and research proposals. Members of the Committee presented the following reflection papers and research proposals for consideration by the Committee:

- Access to justice (Mario Luis Coriolano)
- Budget and human rights (Mario Luis Coriolano)
- Digital transformation: the impact of new technologies on human rights (Changrok Soh)
- Economic, social and cultural rights on the agenda of international jurisdiction (Ion Diaconu)
- Mainstreaming gender equality and ensuring gender parity in the Advisory Committee (Elizabeth Salmón)

19. At its 9th meeting, on 10 August 2018, the Advisory Committee decided to submit a research proposal on the theme "Economic, social and cultural rights on the agenda of international jurisdiction" to the Human Right Council for its consideration (see annex III).

20. At the same meeting, the Advisory Committee discussed a reflection paper on mainstreaming gender equality and ensuring gender parity in the Advisory Committee, prepared by Elizabeth Salmón (see annex IV). It indicated that the Human Rights Council may take into account the principles mentioned in the reflection paper when appointing a new member of the Advisory Committee.

21. During the ensuing discussion, statements were made by members of the Advisory Committee and representatives of observer States, an observer for an intergovernmental organization and observer for a non-governmental organization (see annex II).

## C. Appointment of members of the Working Group on Communications

22. According to paragraphs 91 to 93 of the annex to Human Rights Council resolution 5/1, the Advisory Committee is to appoint five of its members, one from each regional group, with due consideration for gender balance, to constitute the Working Group on Communications. In the event of a vacancy, the Committee should appoint an independent and highly qualified expert from the same regional group from the Committee. Since there is a need for independent expertise and continuity with regard to the examination and assessment of communications received, the independent and highly qualified experts of the Working Group are appointed for three years. Their mandate is renewable once only.

23. The current members of the Working Group on Communications were appointed by the Advisory Committee at its eleventh, thirteenth and seventeenth sessions (see A/HRC/AC/11/2, para. 29; A/HRC/AC/13/2, paras. 36–37; and A/HRC/AC/17/2, para. 26).

24. In view of the fact that the term of membership of three members of the Working Group, namely, Imeru Tamrat Yigezu (Group of African States), Katharina Pabel (Group of Western European and other States) and Mario Luis Coriolano (Group of Latin American and Caribbean States) expires on 30 September 2018, the Committee decided, at its 9th meeting, on 10 August, to appoint Karla Hananía de Varela, Ludovic Hennebel and Mona Omar as members of the Working Group.

# V. Report of the Advisory Committee on its twenty-first session

25. At the 10th meeting, on 10 August 2018, the Rapporteur of the Advisory Committee presented the draft report of the Committee on its twenty-first session. The Committee adopted the draft report ad referendum and decided to entrust the Rapporteur with its finalization.

26. At the same meeting, Karla Hananía de Varela, Ibrahim Abdulaziz Alsheddi, Ludovic Hennebel and Mona Omar made closing statements. Following the usual exchange of courtesies, the Chair made final remarks and declared the twenty-first session of the Advisory Committee closed.

# Annex I

## Documents issued for the twenty-first session of the Advisory Committee

### Documents issued in the general series

| *Symbol* | *Agenda item* | |
|---|---|---|
| A/HRC/AC/21/1 | 1 | Provisional agenda and annotations |
| A/HRC/AC/21/2 | 4 | Report of the Advisory Committee on its twenty-first session |

### Documents issued in the limited series

| *Symbol* | *Agenda item* | |
|---|---|---|
| A/HRC/AC/21/L.1 | 3 (k) | The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights |
| A/HRC/AC/21/L.2 | 3 (f) | Negative impact of terrorism on the enjoyment of human rights |
| A/HRC/AC/21/L.3 | 3 (i) | National policies and human rights |
| A/HRC/AC/21/L.4 | 3 (h) | Contribution of development to the enjoyment of human rights |
| A/HRC/AC/21/L.5 | 3 (e) | Activities of vulture funds and their impact on human rights |
| A/HRC/AC/21/L.6 | 3 (g) | Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights |
| A/HRC/AC/21/L.7 | 3 (j) | A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action |

## Annex II

**List of speakers**

| *Agenda item* | | *Meeting and date* | *Speakers* |
|---|---|---|---|
| 2. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions | | | |
| (a) Requests currently under consideration by the Committee | (i) Regional arrangement for the promotion and protection of human rights | 1st meeting<br>6 August 2018 | Members: Ion Diaconu, Imeru Tamrat Yigezu, Dheerujlall Baramlall Seetulsingh, Elizabeth Salmón, Mona Omar, Ludovic Hennebel, Lazhari Bouzid, Karla Hanania de Varela, Mario Luis Coriolano, Ajai Malhotra |
| | (ii) A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action | 2nd meeting<br>6 August 2018 | Members: Ludovic Hennebel, Mona Omar, Lazhari Bouzid, Ion Diaconu, Dheerujlall Baramlall Seetulsingh, Ajai Malhotra<br>Observer intergovernmental organization: Azerbaijan |
| | (iii) The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights | 2nd meeting<br>6 August 2018 | Members: Xinsheng Liu, Lazhari Bouzid, Mario Luis Coriolano, Ion Diaconu, Dheerujlall Baramlall Seetulsingh<br>Observer State: European Union |
| | (iv) National policies and human rights | 3rd meeting<br>7 August 2018 | Members: Mario Luis Coriolano, Changrok Soh, Ajai Malhotra, Karla Hanania de Varela, Ibrahim Abdulaziz Alsheddi<br>Observer State: Peru |



A/HRC/AC/21/2

| *Agenda item* | | *Meeting and date* | *Speakers* |
|---|---|---|---|
| | (v) Activities of vulture funds and their impact on human rights | 6th meeting<br>8 August 2018 | Members: Mohamed Bennani, Ludovic Hennebel |
| | (vi) Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human right | 6th meeting<br>8 August 2018 | Members: Dheerujlall Baramlall Seetulsingh (Rapporteur), Jean Ziegler, Mario Luis Coriolano<br>Observer States: Egypt and Tunisia |
| 3. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007 and section III of the annex to Council resolution 16/21 of 25 March 2011 | | | |
| (b) Agenda and annual programme of work, including new priorities | | 8th meeting<br>9 August 2018 | Members: Lazhari Bouzid, Mario Luis Coriolano, Karla Hananía de Varela, Ludovic Hennebel, Xinsheng Liu, Dheerujlall Baramlall Seetulsingh,<br>Observer States: Peru, Brazil, Guatemala,<br>Intergovernmental organization: European Union<br>Non-governmental organization: United Nations Watch |

# Annex III

## Research proposal

### Promoting economic, social and cultural rights through jurisdictional means

In all States, economic, social and cultural human rights can be claimed before internal judicial bodies, to the extent they are provided for in the national legislation, taking into account the obligations established for the State authorities, for the employers and for other stakeholders.

At the international level, claims and complaints concerning these rights are increasingly examined by regional courts and by international and quasi-jurisdictional bodies created by States in order to consider such cases and to assist them to raise the level of application of their commitments in this field.

Economic, social and cultural rights are thus recognized as justiciable, taking into account their specificity as human rights which have to be realized progressively by States, using to the maximum their resources available, according to the 1966 Covenant.

First, the courts of human rights existing in Europe, the Americas and Africa receive and consider cases concerning economic, social and cultural rights, in accordance with their status and procedures.

The European Court of Human Rights (ECtHR) developed an extensive practice of cases concerning violation of such rights, which are connected to, or whose exercise is a condition for respecting civil and political rights. The jurisprudence of ECtHR includes cases of violation of the rights to health, to adequate conditions of living, to a healthy environment, to housing, to a social benefit, to culture and education or to freedom of expression indispensable to scientific research and creative activity[1], related to the interdiction of inhuman and degrading treatment, to the right to private and family life, to the right to a fair trial or to the principle of non-discrimination. The Court of Justice of the European Union examined cases concerning the freedom of enterprise, the freedom of circulation of goods and persons, as well as cases of gender discrimination, of the right to a fair trial and to an effective remedy in member States.[2]

The Inter-American Court of Human Rights (IACHR) examined an increasing number of claims of violation of economic, social and cultural rights, including some 15 cases after 2000, concerning the right to work, the right to property concerning social security pensions, the right to land of indigenous communities, the right to education and the right to enjoy one's own culture.[3]

The African Court of Human and People's Rights, created by the Optional Protocol to the African Charter of human and Peoples' Rights of 2004, examined an important number of cases concerning human rights, including the economic, social and cultural rights, such as

[1] Cases Ananyev and others v. Russia, petitions nr. 42525/07 and 60800/08, decision of 10 January 2012; Omeryildiz v. Turkey, petition nr. 48939/99 decision of 30 November 2004; tatar v. Romania, petition nr. 67021/01, decision of 27 January 2009; Calvel and Ciglio v. Italy, petition nr. 32967/96, decision of 12 June 2003; Sorguc v. Turkey, petition nr. 17089/03, decision of 23 June 2009 and others.

[2] Cases Garcia Ayelo, nr. 148/02, decision of 2003; Puid, nr. 4/15, decision of 14 November 2013; Giordano, nr. 611/12 P, decision of 14 October 2014; Test-Achats, nr. C-236/09, decision of 30 April 2011 and others.

[3] Cases Lagos del Campo v. Peru, nr. 12795, decision of 31 August 2017; Sawhoyamaka Indigenous Community v. Paraguay, decision of 29 March 2006; Girls Yean and Bosico v. Dominican Republic, decision of 8 September 2005; Artavia Murillo and others (In Vitro Fertilization) v. Costa Rica, decision of 28 November 2012 and others.

the right to a minimum age of girls for marriage, the consent to marriage, the right to inheritance and the obligation to eliminate traditional practices and attitudes that undermine the rights of women and children, the right to enjoy the best attainable state of physical and mental health, the right to work, the rights of indigenous peoples to the land they traditionally used.[4]

Quasi-jurisdictional bodies created by human rights treaty bodies to examine communications with regard their implementation are also very active in Europe, Latin-America and Africa in promoting economic, social and cultural rights.

The European Committee on social rights considered complaints, individual or collective concerning the right to work, the protection of children and of families, the rights to association and to collective negotiation, protection of Roma groups and others.[5]

The Inter-American-Commission of Human Rights considered communications concerning the rights of indigenous peoples to life and to health, to maintaining their way of life including their right to education, to physical, cultural and spiritual welfare, to the protection of children and of family life.[6]

The African Commission of the Human and People's Rights examined in the beginning mainly cases concerning the rights of indigenous peoples and gradually moved to communications claiming violations of some economic, social and cultural rights.[7]

The jurisprudence of the bodies created by international treaties on human rights offers also interesting cases.

The Human Rights Committee considered individual communications both with regard to rights of indigenous peoples according to article 27 of the Covenant and with regard to human rights to family and private life, to freedom of expression in a language freely chosen, to the right to a name as an important aspect of his identity, to the right to education in connection with non-discrimination or to violations of religious freedoms by the absence of alternatives to the military service.[8]

The Committee on the elimination of racial discrimination considered complaints of discrimination on racial and ethnic grounds in the offer of postal services, in the protection

---

[4] Cases nr. 046/2016, Association for the Progress and the Defense or Women' s Rights and The Institute for Human Rights and Development in Africa v. Mali, decision of 11 May 2018; nr. 002/2016, George Maili Kemboge v. Tanzania, decision of 11 May 2018; o22/2015, Rutabingwa Chrysanthe v. Rwanda, decision of 11 May 2018; 001/2013, Ernest Francis Mtingwi v. Malawi, declared inadmissible; 006/2012, African Commission of Human and Peoples' Rights (on behalf of the Ogiek Community) v. Kenya, decision of 26 May 2017 and others.

[5] Complaints nr. 68/2011 and nr. 84/2012 of the European Council of Police trade-Unions v. France; complaints of Defense for Children International nr. 62/2010 and 98/2013 v. Belgium; individual complaint nr. 85/2013 concerning Sweden; complaints of the European Roma Rights Center nr. 6120/10 v. Portugal and nr. 2720/05 v. Italy and others.

[6] IACHR, case Yanomani v. Bresil, nr. 7615, resolution nr. 12/85; case Maya Indigenous Community of Toledo v. Belize, nr. 12053, Report nr. 40/04; case Rochac a. o. v. El Salvador, nr. 12577, resolution of 7 November 2012 and others.

[7] Cases CERAC and CESR v. Nigeria, nr. 155/96, opinion of 27 May 2002; Endorois Welfare Council v. Kenya, nr. 276/2003, opinion of 4 February 2010; Amnesty International v. Zambia, case nr. 212/98, opinion of 5 May 1999; Sudan Human Rights Organization & Center on Housing Rights and Evictions (COHRE) v. Sudan), no. 179/03 and 296/05 opinion of 2009; Free Legal Assistance Group a.o. v. Zaire, nr. 25/89, 47/90, 56/91 and 100/93, opinion of 4 April 1996

[8] Cases Kitok v. Sweden, nr. 197/1995, opinion of 27 July 1998; Paader a. o. v. Finland, nr. 2102/2011, opinion of 26 March 2014; Francis Hopu and Tepoaitu Bessert v. France, n0. 549/1993, opinion of 1995; Walter Hoffman and Gwen Simpson v. Canada, nr. 1220/2003, opinion of 2007; Raihon Hudoyberganov v. Turkmenistan, nr. 931/2000, opinion of 2007; A. R. Coerial and M. A. Aurik v. The Netherlands, nr. 453/1991, decision of 2005; Yeo Boom Yoon and Myung Jin Choi v. Republic of Korea, nr. 1321, 1322/2004, opinion of 3 November 2006; Karen Noelia Llantoy Huaman v. Peru, nr. 1153/2003, opinion of 24 October 2005; X. v. Columbia, nr. 1361/2005, opinion of 14 May 2007.

of the right to work, the equal access to banking services, to education and to housing for Roma individuals.[9]

The Committee on the elimination of discrimination against women examined cases concerning claims of granting protection to children and family by refusing a residence permit to a minor mother and her child, of domestic violence against women, of discrimination based on gender, racial origin and socio-economic background, of forceful sterilization, of gender discrimination concerning access to citizenship.[10]

The Committee against torture also referred in one of its cases to social rights and retained that the violation of such rights amounts to inhuman and degrading treatment.[11]

The Committee on the rights of the child, in function since January 2014, examined also cases concerning economic and social rights of children, such as the best interest of the child, family rights, the right to identity, among cases on civil and political rights.[12]

The Committee on the rights of all migrant workers and of members of their families does not receive claims because the Optional Protocol to the respective Convention is not yet in force.

The Committee on economic, social and cultural rights received, through the Optional Protocol of 2008, in force since 2013, the competence to consider communications from individual and from other States parties (if such a procedure is accepted by the two States concerned). The Optional Protocol was ratified by 23 States, out of the 168 States parties to the Covenant. It just started its activity.

Notably, its mandate differs from those of other treaty bodies, as its principal mission is not to ascertain violations of the provisions of the Covenant, but to assist the State concerned to find ways and means to implement the provisions of the Covenant. For that purpose, it can:

- Make available its good offices with the view to reaching a friendly settlement between the State party and the communicant;
- Transmit its views and recommendations to the parties concerned, after considering the reasonableness of the steps taken by the State concerned and taking into account that this State can take a range of possible policy measures to implement the rights set forth in the Covenant;
- Consult relevant documentation from other UN bodies and agencies, international organizations, as well as from the regional human rights systems;
- Transmit, with the agreement of the State concerned, to UN specialized agencies, funds and programmes and other appropriate bodies its views and recommendations concerning the need for technical advice or assistance in connection with the issues raised and the advisability of measures likely to contribute to assisting the State to achieve progress in the implementation of the respective human rights.

The Committee received until now a number of communications concerning rights to health, to social security, to housing, to education and rights related to employment and to discrimination. The communications received concern Spain, Ecuador, Luxemburg and Italy. Several cases solved concerning Spain retain the attention by the careful examination of the

[9] Cases Nikolas Regerat a. o. v. France, no. 24/2002, opinion of 16 April 2003; Jilmaz Dogan v. The Netherlands, no 1/1984, opinion of 10 August 1988; Z. B. Ahmed Habassi v. Denmark, nr. 10/1997, opinion of 6 April 1999; Murat Er v. Denmark, nr. 40/2007, opinion of 8 August 2007; L. R. and other Slovak citizens of Roma origin v. Slovakia, nr. 31/2003, opinion of 10 March 2005; I. G. v. Republic of Korea, nr. 5/2012, opinion of 1 May 2015.

[10] Cases Zhen Zhen Zheng v. The Netherlands, nr. 15/2007, opinion of 26 October 2009; A. T. v. Hungary, nr. 2/2003, opinion of 26 January 2005; Maria de Lourdes da Silva Pimentel, nr. 17/2008, opinion of 25 July 2011; A. S. v. Hungary, nr. 4/2004, opinion of 25 August 2006; Constance Ragan Salgado v. UK, nr. 11/2006, opinion of 22 January 2007.

[11] Case Hajrizi Dzemajl a. o. v. Yugoslavia, nr. 161/2000, opinion of 2 December 2002.

[12] Cases I. A. M. v. Denmark, nr. 3/2016, opinion of 25 January 2018; M. E. B. v. Spain, nr. 009/2017, opinion of 2 June 2017; R. L. v. Spain, nr. 18/2017, opinion of 25 January 2018.

situation and by stressing the need of reasonable arguments of the State party on the measures taken to the maximum of its available resources and of legislative guarantees to protect individuals and families' right to housing, while cases concerning Ecuador with regard mainly to the right to work and to social security were found inadmissible[13], for different reasons.

[13] Cases I. D. G. v. Spain, nr. 002/2014, opinion of 17 June 2015; M. B. D. v. Spain, nr.5/2015, opinion of 5 July 2017; Jaime Frain Arellano Medina v. Ecuador, nr.7/2015 opinion of 29 March 2018.

# Annex IV

## Mainstreaming gender equality and ensuring gender parity in the Advisory Committee

## I. Introduction

In its resolution 6/30, the Human Rights Council requested the Advisory Committee to integrate regularly and systematically a gender perspective into the implementation of their mandate. In response, during its first session in August 2008, Mr. Ansar Burney, Ms. Chinsung Chung, Ms. Purification Quisumbing, Mr. Shigeki Sakamoto and Ms. Mona Zulficar requested to operationalize gender mainstreaming, including action-oriented mechanisms that would facilitate the implementation of the Committee's mandates. On 22 January 2009, they presented the "Draft Guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms". However, the composition of the main human rights bodies and mechanisms shows that this objective has not been met.

At its 20th session in February 2018, the Advisory Committee held a discussion on reflection papers and research proposals. Following the discussions (A/HRC/AC/20/2 Resolution), the Advisory Committee recognized the importance that its membership reaches gender parity and that ensuring gender mainstreaming in all its activities would be an extremely valuable advance.

During this session, at its 6th meeting, on 22 February 2018, it requested Elizabeth Salmón to prepare a reflection paper on mainstreaming gender equality and ensuring gender parity in the Advisory Committee for consideration at its twenty-first session.

## II. Background: the representation of women in the organs of the United Nations system

Women are underrepresented in both the treaty bodies and the special procedures of the Human Rights Council. There is only a significant presence of women in the bodies or mandates that refer to issues related to women or childhood. This denotes a stigmatization of women in the role of mothers or as the only ones interested in equality rights, not discrimination, among others, of women themselves.

The current composition of the Committees (excluding the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child) reflects an average female participation of 29.66%. The Committee on the Elimination of Racial Discrimination included the most women (8 out of 18 members) and the Committee on the Rights of Persons with Disabilities with the lowest number (1 of 18 members). It should be noted that the Subcommittee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment has 48% (12 of 25 members). This average does not adequately reflect the presence of women and even less the promotion of gender equality. Nor does it comply with the commitment of the United Nations to incorporate the gender approach in all its strata.

### B. The treaty bodies

#### Committee on the Elimination of Racial Discrimination

The Committee for the Elimination of Racial Discrimination is made up of 18 experts,[1] chosen from among the nationals of the States Parties. It is responsible for monitoring the

[1] Article 8.1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

compliance and implementation by the States Parties of the provisions of the Convention on Discrimination. Its members are nationals of the State Party that nominates them.

The term of each member is four years. The members are renewed by halves every two years, and they can be re-elected. Its members elect a president. three vice-presidents and a rapporteur.[2] 8 of its 18 members are women (38.88%). There are two vice- chairpersons: Ms. Li Yanduan and Ms. Mcdougall Gay and Ms. Izsák-Ndiaye as Rapporteur.

**Human Rights Committee**

The Human Rights Committee is composed of 18 members[3]. They are proposed by the States Parties to the International Covenant on Civil and Political Rights, and elected by secret ballot[4]. Its final conformation must not contain more than one national of the same State.[5]

Likewise, an equitable geographical distribution must be maintained and the different forms of civilization and the main legal systems should be represented[6]. Its members elect a president, three vice-presidents, and a rapporteur[7] responsible for preparing the annual report on the activities of the Committee for the General Assembly. Only 7 of the 18 current members are women (38.88%). Ms. Ivana Jelic serves as Vice President and Ms. Margo Waterval as Rapporteur.

**Committee on Economic, Social and Cultural Rights**

The Committee on Economic, Social and Cultural Rights is made up of 18 members. They are nationals of the State Party that nominates them, and they are elected by secret ballot of the Economic and Social Council of the United Nations. The final composition of the Committee must not have more than one national of the same State[8].

The term of each member is four years, they are renewed by halves every two years, and they can be re-elected. The members elect a president, three vice-presidents and a rapporteur, respecting the criterion of proportional geographic distribution. 5 of its 18 members are women (27.77%). Ms. Maria Virginia Bras Gomes is President, Heisso Shin Vice President and Lydia Carmelita Ravenberg is Rapporteur. Hence, 3 of the 5 positions of representation available are occupied by women.

**Committee on the Elimination of Discrimination against Women**

This committee is made up of 23 experts, with a high moral and a recognized career in the field of human rights[9]. These experts are elected by the States Parties by secret ballot, taking into account an equitable geographical distribution as well as the representation of the different forms of civilization, and the main legal systems of the world.[10]

The mandate of each member is four years, they are renewed by halves every two years[11]. Its members elect a president, three vice-presidents and a rapporteur[12]. 22 of the 23 members of the Committee are women (95.65%). The 5 positions of representation available are held by women.

---

[2] Article 15, Rules of procedure of the Convention on the Elimination of All Forms of Racial Discrimination.
[3] Article 28, International Covenant on Civil and Political Rights.
[4] Article 29, International Covenant on Civil and Political Rights.
[5] Article 31.1, International Covenant on Civil and Political Rights.
[6] Article 31.2, International Covenant on Civil and Political Rights.
[7] Article 17, Rules of procedure of the Human Rights Committee.
[8] Economic and Social Council resolution 1985/17.
[9] Article 17.1. of the Convention on the Elimination of All Forms of Discrimination against Women.
[10] Article 17.1. of the Convention on the Elimination of All Forms of Discrimination against Women.
[11] Article 17.5. of the Convention on the Elimination of All Forms of Discrimination against Women.
[12] Article 16 Rules of procedure on the Elimination of All Forms of Discrimination against Women.

**Committee against Torture**

The Committee against Torture was established by article 17 of the Convention against Torture as the control body of that international instrument, in charge of supervising and monitoring the implementation of the provisions of said convention. This committee is composed of 10 experts chosen from among the nationals of the State Party that nominates them[13], by secret ballot.[14]

The mandate of each member is four years, and the members may be re-elected. Their renewal is by halves every two years. Like the other Committees, their members must elect a president, three vice-presidents and a rapporteur. 4 of its 10 members are women (40%). 2 of the 4 representation positions available are occupied by women. Ms. Essadia Belmir and Felice Gaer serve as Vice Presidents.

**Committee on the Rights of the Child**

The Committee for the Rights of the Child is made up of 18 experts[15]. The mandate of each member is four years, they are renewed by halves every two years, and they can be re-elected[16]. Its members must elect a president, four vice-presidents and a rapporteur[17]. 9 of its 18 members are women (50%). 3 of the 6 available representation positions are occupied by women.

**Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families**

This committee is made up of 14 members[18]. They are elected by the States Parties (by secret ballot), taking into account an equitable geographic distribution, (including the nationality of the States of the employer and the worker) as well as the representation of the main legal systems of the world[19]. 3 of the 14 members are women (21.42%). 3 of the 5 available representation positions are held by women.

**Committee on Enforced Disappearances**

The Committee on Enforced Disappearances is composed of 10 experts, elected by the States parties. It should take into account an equitable geographical distribution, relevant legal experience and a balanced gender representation[20]. The election is made by secret ballot[21]. Its members are elected for four years[22]. 3 of the 10 experts that comprise it are women (30%). 2 of the 4 representative positions available are held by women.

**Committee on the Rights of Persons with Disabilities**

In its beginnings, the Committee on the Rights of Persons with Disabilities was made up of 12 experts. Once it obtained 60 ratifications, its composition was increased by six more

[13] Article 17.1. of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[14] Article 17.2. of the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

[15] Article 43.2. of the Convention on the Rights of the Child.

[16] Article 43.6. of the Convention on the Rights of the Child.

[17] Article 17.1, Rules of procedure of The Committee on the Rights of the Child.

[18] Article 72.1.b) of the International Convention on the protection of the rights of all migrant workers and their families.

[19] Article 72.2 a) of the International Convention on the protection of the rights of all migrant workers and their families.

[20] Article 26.1. of the International Convention on the protection of the rights of all migrant workers and their families.

[21] Article 26.2. of the International Convention on the protection of the rights of all migrant workers and their families.

[22] Article 26.4. of the International Convention on the protection of the rights of all migrant workers and their families.

members and reached 18 members[23]. Like the other international human rights treaties of the United Nations system, the Convention on the Rights of Persons with Disabilities establishes that "an equitable distribution, the representation of different forms of civilization and the main legal systems"[24] must be taken into consideration at the time of choosing the members of the Committee. The interesting point is the addition that it should be reflect "a balanced gender representation and the participation of experts with disabilities". At present, only Theresia Degener is part of this Committee and serves as President.

**Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment**

At its inception, the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment was composed of 10 experts. Once it obtained 50 ratifications, its composition was increased by 15 more members and reached 25 members.[25]

Members must be nationals of a State Party to the Protocol[26], they must have a high moral standing and a recognized track record in the judicial field[27]. Additionally, "a balanced gender representation"[28] is required, in addition to the criteria of equitable geographic distribution and representation of the various forms of civilization and legal systems.[29]

The term of each member is 4 years and they can be re-elected once[30]. Its members elect 4 vice-presidents and a president. 12 of the 25 members are women (48%) and 3 of the 5 positions of representation available are occupied by women.

| | *Total number of members* | *Criteria for election* | *Number of women members* | *Women in positions* |
|---|---|---|---|---|
| **Committee on the Elimination of Racial Discrimination** | 18 | High moral integrity<br>Recognized impartiality<br>Nationals of the States Parties that postulate them.<br>Not more than one national of the same State<br>Equitable geographical distribution.<br>Representatives of different forms of civilization and the main legal systems.<br>secret ballot | 8 (44.44%) | 1 Chairperson, 3 Vice-Chairpersons, 1 Rapporteur<br>2 vice Chairpersons and 1 Rapporteur |

[23] Article 34.2. of the Convention on the Rights of Persons with Disabilities.

[24] Article 34.4. of the Convention on the Rights of Persons with Disabilities.

[25] Article 5.1 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

[26] Article 6.2 a) of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

[27] Article 5.2 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

[28] Article 5.4 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

[29] Article 5.3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

[30] Article 9 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

| | *Total number of members* | *Criteria for election* | *Number of women members* | *Women in positions* |
|---|---|---|---|---|
| **Human Rights Committee** | 18 | High moral integrity<br>Recognized impartiality<br>Nationals of the States Parties that postulate them.<br>Not more than one national of the same State<br>Equitable geographical distribution<br>Representatives of different forms of civilization and the main legal systems.<br>secret ballot | 7 (38.88 %) | 1 Chairperson, 3 Vice-Chairpersons, 1 Rapporteur<br>1 Vice-Chairperson and 1 Woman Rapporteur |
| **Committee on Economic, Social and Cultural Rights** | 18 | High moral integrity<br>Recognized impartiality<br>Nationals of the States Parties that postulate them.<br>Not more than one national of the same State<br>Equitable geographical distribution<br>Representatives of different forms of civilization and the main legal systems.<br>secret ballot | 5 (27.77%) | 1 Chairperson, 3 Vice-Chairpersons, 1 Rapporteur<br>1 woman Chairperson, 1 Woman Vice Chairperson and 1 Woman Rapporteur |

| | *Total number of members* | *Criteria for election* | *Number of women members* | *Women in positions* |
|---|---|---|---|---|
| **Committee on the Elimination of Discrimination against Women** | 23 | High moral integrity<br>Recognized impartiality<br>Recognized career in the field of human rights<br>Nationals of the States Parties that postulate them.<br>Not more than one national of the same State<br>Equitable geographical distribution<br>Representation of the different forms of civilization and the main legal systems of the world<br>secret ballot | 22 (95.65%) | 1 Chairperson, 3 Vice-Chairpersons, 1 Rapporteur<br>No woman representative |
| **Committee against Torture** | 10 | Persons of high moral character<br>Recognized impartiality<br>Recognized competence in the field of human rights<br>Nationals of the State party that postulates them<br>Equitable geographical distribution<br>Legal experience<br>secret ballot | 4 (40%) | 1 Chairperson, 3 Vice-Chairperson 1 Rapporteur<br>2 woman Vice-Chairperson |

| | *Total number of members* | *Criteria for election* | *Number of women members* | *Women in positions* |
|---|---|---|---|---|
| **Committee on the Rights of the Child** | 18 | High moral integrity<br>Recognized impartiality<br>Recognized trajectory this field<br>Nationals of the States Parties that postulate them.<br>Not more than one national of the same State<br>Equitable geographical distribution<br>Representation of the main legal systems<br>secret ballot | 9 (50%) | 1 Chairperson,<br>4 Vice-Chairperson,<br>1 Rapporteur<br>1 woman Chairperson and 2 woman Vice-Chairperson |
| **Committee on the Protection of the Rights of all Migrant Workers and Members of their Families** | 14 | Persons of high moral character<br>Recognized impartiality<br>Recognized competence in the field covered by the Convention<br>Nationals of the States Parties that postulate them<br>Equitable geographical distribution, including both States of origin and States of employment.<br>Representation of the main legal systems<br>secret ballot | 3 (21.42%) | 1 Chairperson,<br>3 Vice-Chairperson,<br>1 Rapporteur<br>2 woman Vice-Chairperson and 1 Woman Rapporteur |

| | *Total number of members* | *Criteria for election* | *Number of women members* | *Women in positions* |
|---|---|---|---|---|
| **Committee on the Rights of Persons with Disabilities** | 18 | Persons of high moral character<br>Recognized impartiality<br>Nationals of the States Parties that postulate them.<br>Equitable geographical distribution<br>Representation of the different forms of civilization and the main legal systems<br>Representation of balanced gender<br>Participation of experts with disabilities<br>secret ballot | 1 (0.06%) | 1 woman Chairperson |
| **Committee on Enforced Disappearances** | 10 | High moral integrity<br>Recognized impartiality<br>Recognized competence in the field of human rights<br>Nationals of the States Parties that postulate them.<br>Equitable geographical distribution.<br>Relevant legal experience<br>Representation of balanced gender<br>secret ballot | 3 (30%) | 1 Chairperson, 3 Vice-Chairpersons, 1 Rapporteur<br>1 woman Chairperson and 1 woman Vice-Chairperson |

| | *Total number of members* | *Criteria for election* | *Number of women members* | *Women in positions* |
|---|---|---|---|---|
| **Subcommittee on Prevention of Torture** | 25 | Persons of high moral character<br>Recognized impartiality<br>Recognized trajectory in this field<br>Nationals of a State party<br>Equitable geographical distribution<br>Representation of the different forms of civilization and the main legal systems<br>Balanced gender representation<br>secret ballot | 12 (48%) | 1 Chairperson, 4 Vice-Chairpersons<br>3 woman vice-Chairpersons |

## C. Special Procedures of United Nations Human Rights Council

In general, special procedures entrust mandate-holders to review, supervise, advice and publicly report on human rights situations in specific countries or territories, known as country mandates, or on main problems of human rights violations at the global level, known as thematic mandates.

The mandate-holders of the special procedures are chosen by the President of the Human Rights Council, based on the recommendations made by the Consultative Group. Following resolution 5/1 of the Human Rights Council, when choosing mandate-holders, the following factors should be taken into account: gender balance, equitable geographic representation and an appropriate representation of different legal systems.[31]

Currently, there are 44 thematic mandates and 12 country mandates. However, only 4 female experts are responsible for country mandates: Ms. Rhona Smith (Special Rapporteur on the situation of human rights in Cambodia), Ms. Marie-Thérèse Keita Bocoum (Independent Expert on the situation of human rights in Central African Republic), Ms. Sheila B. Keetharuth (Special Rapporteur on the situation of human rights in Eritrea) and Ms. Yanghee Lee (Special Rapporteur on the situation of human rights in Myanmar). In this way, women who hold country mandates represent 33.33% of the total.

This situation of under-representation in which women find themselves is not present in the case of thematic mandates, in which the participation of woman reaches 65.90%. 15 of them work as Special Rapporteurs, 12 are part of Working Groups and 2 are Independent Experts. It is worthwhile to note that the Working Group on the issue of Discrimination against Women in Law and in Practice is composed exclusively of 5 women.

## D. The Advisory Committee in perspective: identifying problems and challenges

According to resolution 5/1 of 18 June 2007 of the Human Rights Council, its Advisory Committee is composed of 18 experts. Their candidacies are proposed by the Member States

[31] Human Rights Council. "Resolution 5/1. Institution-building of the United Nations Human Rights Council", 18 June 2007, para. 40.

of the United Nations. Experts are elected by the Council in secret ballot and must represent the different regions of the world (5 from African States; 5 from Asian States; 2 from Eastern European States; 3 from Latin American and Caribbean States, and 3 from Western European and other States).

In conjunction with the geographical distribution criteria mentioned above, resolution 5/1 establishes that gender balance should be taken into account at the time of the selection of experts. At its sixth session, the Council adopted Decision 6/102 "Follow-up to Human Rights Council resolution 5/1". In this new resolution, he reiterated that "in electing members of the Advisory Committee, the Council should give due consideration to gender balance and appropriate representation of different civilizations and legal systems".[32]

Two main themes have been identified to achieve gender parity in the Advisory Committee. The first is related to the fact that the States submit the candidacies. The second one is to assess the role played by the women elected as members of the Advisory Committee.

Regarding the first element, practice shows that, since its inception, only 10 States have proposed female candidates. This certainly reduces the scope for action of the Human Rights Council when selecting future members of the Advisory Committee. Indeed, since the Advisory Committee began its functions, the trend has been that States very rarely proposed women.

Thus, in the framework of the seventh session of the Council, on 26 March 2008, the first 18 members of the Advisory Committee were elected. Only four were women had been included: Chinsung Chung (Republic of Korea), Purification V. Quisumbing (Philippines), Halima Embarek Warzazi (Morocco) and Mona Zulficar (Egypt). At the time of presenting this report, the figure is repeated because there are only 4 women (or 22.22%) who make up the Advisory Committee: Karla Anania de Varela (El Salvador), Mona Omar (Egypt), Katharina Pabel (Austria) and Elizabeth Salmón (Peru).[33]

Out of a total of 45 experts who have been part of the Advisory Committee of the Human Rights Council, only 13 have been women, which represents 32.5% of the total. The States that, at some time, have nominated female candidates have been Austria, Egypt, El Salvador, the Philippines, France, Guatemala, Morocco, Peru, Republic of Korea and Romania. Egypt has done so on three occasions and has become the State that has most times proposed women as members of the Committee.

Regarding the role played by the women elected as members of the Advisory Committee, it is interesting to note that only 3 women have had the possibility of presiding the Advisory Committee, which represents 27.27% of the total. As is known, Article 103 of the Regulations of the General Assembly of the United Nations establishes that the Advisory Committee elects a president, two vice-presidents and a rapporteur to form the Bureau.

Every year, women have had an active participation in this space of representation. However, of the 11 presidents that the Committee has had, only 3 have been women: Halima Embarek Warzazi (2009), Purification V. Quisumbing (2010) and Katharina Pabel (2018). With the exception of 2010 and 2018, there has always been at least one woman in the position of vice

[32] Human Rights Council. "Decision 6/102. Follow-up to Human Rights Council resolution 5/1", 27 September 2007. Available from: http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf

[33] For the election of 7 members in 2010, eight candidates were submitted, only Egypt and the Republic of Korea had nominated women (25%). In 2011, to fill 7 seats again, 7 candidatures were received, of which three were women (42.8%). In 2012, 4 new members had to be elected and among the 4 nominations submitted, only Austria had nominated a woman (25%). In 2013, it was again required to reoccupy 7 places. Out of the 7 candidates, there was only one woman (14.28%). In February 2014, El Salvador proposed the candidacy of Karla Hanania de Varela. On September 2014, the mandate of 7 members ended and of the 7 candidatures received, only Guatemala, France and Romania proposed women experts (42.85%). This has been replicated in 2015 where of four candidacies, only one was a woman (25%). In 2016, 7 new members had to be elected and there were a total of 8 candidates, of which only Egypt and El Salvador proposed female candidates (25%). During its 36th session, the Council was to elect 7 new members of the Advisory Committee. Eight candidatures were received until August 2017 and, as happened in the previous elections, only two were women (25%).

president. On four occasions, the Committee has had two vice presidents: Chinsung Chung and Mona Zulficar (2008), Katharina Pabel and Anantonia Reyes Prado (2015), Laura-Maria Crăciunean and Karla Hananía de Varela (2016) and Laurence Boisson de Chazournes and Anantonia Reyes Prado (2017). Only in 2014 and 2016, one woman held the position of rapporteur.

Women members of the Committee have been part of very important drafting groups such as those on education and training in the field of human rights; promotion and protection of human rights in post-disaster and conflict situations and the negative impact of corruption on human rights. In some cases, these groups have been chaired by women such as Mona Zulficar in the "Drafting Group on the Promotion of Human Rights" peoples to peace", Anantonia Reyes Prado in the" Drafting Group on the global problem of unaccompanied migrant children and adolescents and human rights", and Katharina Pabel in the "Drafting group on regional agreements for the promotion and protection of human rights" and in the "Drafting Group on the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights".

It is particularly important that, in its resolution 6/30, the Human Rights Council requested the Advisory Committee: "regularly and systematically to integrate a gender perspective into the implementation of their mandate including when examining the intersection of multiple forms of discrimination against women and to include in their reports information on and qualitative analysis of human rights of women and girls, and welcomes the efforts made by most special procedures and other human rights mechanisms in that regards"[34]. In response, at its first session, the Advisory Committee adopted a recommendation on integrating the human rights of women throughout the United Nations system, requesting the preparation of draft guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms.

On 24 January 2009, Ms. Chinsung Chung, Ms. Mona Zulficar, Ms. Purification V. Quisumbing, Mr. Ansar Ahmed Burney and Mr. Shigeki Sakamoto presented the draft guidelines[35]. In this paper, it was proposed that the United Nations bodies specializing in gender issues should use their expertise to promote gender mainstreaming in other system entities, women's representation should increase at all levels of United Nations Organization, financial resources should be allocated for the implementation of gender mainstreaming, sustained and effective support for gender specific units and focal points, the creation of new bodies focused on integrating the gender perspective, the preparation of qualitative analyses on the way in which the gender perspective is incorporated in the discussions and reports of the United Nations and the periodic monitoring of the progress on this issue.

## III. Gender parity initiatives in the United Nations System

Over the years, efforts have been made to promote gender parity in the United Nations System. A first precedent is the Vienna Declaration and Program Action that was adopted on 25 June 1993 during the World Conference on Human Rights. This statement affirms the inalienability of women's human rights, equality and the elimination of all forms of gender discrimination. In addition, it emphasizes the need for the United Nations to take these principles into account in its work on human rights, calls for the adoption of "new procedures to reinforce the fulfillment of commitments in favor of equality and women's human rights"[36] and encourages the appointment and promotion of more women.

Later, in September 1995, the Beijing Declaration and Platform for Action was adopted at the Fourth World Conference on Women. The Beijing Platform for Action seeks the empowerment of women. The Declaration urges the United Nations to adopt measures and

[34] Human Rights Council. "Resolution 6/30. Integrating the human rights of women throughout the United Nations system", 14 December 2007.

[35] Advisory Committee, Human Rights Council. "Integrating the human rights of women throughout the United Nations system". Draft Guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms", A/HRC/AC/2/CRP.4, 22 January 2009.

[36] Vienna Declaration and Programme of Action Programa de Acción de Viena, 25 June 1993, para 40.

develop mechanisms to "achieve an overall equality of women and men"[37] and "to present women as candidates for appointment to senior positions in the United Nations, the specialized agencies and other organizations and organs of the United Nations system"[38]. It also urges national governments to take similar measures to achieve gender parity, particularly in higher positions that involve decision-making.

On 14 December 2007, the Human Rights Council adopted resolution 6/30 on "Integrating the human rights of women throughout the United Nations system". In general, the resolution promotes the integration of a gender perspective in the work of the United Nations system. Specifically, it points out the need for more women to hold higher positions and urges the implementation of more measures to achieve the objective of perfect parity and the participation of more women at all levels of decision-making.

Resolution 62/137 "Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly" was adopted on 18 December of 2007 by the General Assembly as a continuation of the Beijing Declaration and Platform for Action and the Fourth World Conference on Women. This resolution calls for action by the agencies and the United Nations system for the effective implementation of the Beijing Declaration and Platform for Action and the adoption of additional measures for the integration of a gender perspective and "ensure full representation and full and equal participation of women in decision-making [...]"[39].

Moreover, on 9 September 2011, the United Nations High Commissioner for Human Rights adopted the "Gender Equality Policy" with the objective of promoting and institutionalizing gender equality and the integration of a gender perspective within the office itself. It seeks the inclusion and participation of women, and the integration of the principle of non-discrimination in all areas of the mandate of the High Commissioner. A few years later, on 9 April 2014, the General Assembly adopted resolution 68/268 "Strengthening and improving the effective functioning of the human rights treaty body system", which encourages gender parity to be taken into consideration in the appointment of experts by the States.

In June 2015, the Consultative Group for the Human Rights Council adopted the "Guidelines on Gender Parity", recommending that available vacancies be widely disseminated to reach women and urging the establishment of quotas on the list of the finalists proposed to the presidency of the Human Rights Council. Some months later, the High Commissioner presented the summary report of the annual discussion on "integration of a gender perspective: panel on gender parity", which took place on 15 September 2015. In this discussion, the High Commissioner emphasized that gender parity is fundamental and reaffirmed the need to implement the Beijing Declaration and Platform for Action to achieve it.

On 7 June 2017, the Economic and Social Council adopted the resolution on "Mainstreaming gender perspective into all policies and programs in the United Nations system", in which it requested a strengthening of capacities and better use of existing resources to achieve the incorporation of the gender perspective. It also called for the intensification of "the efforts to achieve gender parity in the appointments of the Professional and higher categories of the United Nations system"[40]. The concept of gender parity or equal representation has been incorporated into the United Nations system through "gender mainstreaming". Gender mainstreaming is a broader concept than formal equal representation. It requires a gender dimension to be integrated into the design, implementation, monitoring and evaluation of all policies and institutions so that women and men are able to benefit equally and inequality is not perpetuated[41].

---

[37] Beijing Declaration and Platform for Action, September 15, 1995, paragraph 193 a).

[38] Beijing Declaration and Platform for Action, September 15, 1995, paragraph 193 b).

[39] General Assembly resolution 62/137, paragraph 7 c).

[40] Resolution 2017/9 of the Economic and Social Council, paragraph 7, m).

[41] Christine Chinkin, Women, Rights of, International Protection, in Max Planck Encyclopedia of Public International Law 27 (2010). Cited by International Human Rights Clinic of the University of California, Berkeley. "Achieving gender parity on international judicial and monitoring bodies.

The Secretary General of the United Nations has also commented on the situation of women in the organization. In fact, on 27 July 2017, it issued a report called "Improvement in the status of women in the United Nations system". In this document, he presented the state of institutional culture and representation of women in the United Nations system, referring to the Beijing Declaration and Platform for Action among them. A series of recommendations were presented to improve the situation of women in the United Nations as "the mandatory selection of women when the parity goals have not been reached and the qualification and experience of the candidates meet the requirements of the position"[42], "the mandatory inclusion of at least 50% of women on the shortlist"[43] or "accentuate the competitiveness of United Nations policy on the balance between work and personal life"[44]. Also, on 13 September 2017, the Secretary General presented the "System-wide Strategy on Gender Parity" that aims to achieve gender parity in the United Nations. The document provides figures, an analysis of the current situation in the United Nations system and examples of good practices and recommendations, in addition to the points that each entity could develop in an implementation plan and a sample of minimum standards to achieve perfect parity.

Finally, it is relevant to mention the 17 Sustainable Development Goals identified by the United Nations in 2015. Through this, the United Nations calls upon States to incorporate women in decision-making positions in the field of economic development. The fifth objective aims at achieving gender equality. Some of its goals are to eliminate discrimination against women and Girls (5.1) and to ensure effective participation and equal opportunities in decision-making and political and economic life (5.5). Gender equality is integrated into the rest of the objectives as it is essential to advance in the fields of education, health, elimination of poverty, among others.

## IV. Time for change: achieving gender parity on the Advisory Committee. Why gender parity is important?

States must adopt measures aimed at prohibiting discrimination and ensuring equality between men and women. As the Committee on Economic, Social and Cultural Rights has pointed out, one of the fundamental principles of International Law is the equal rights of men and women to the enjoyment of all human rights.[45]

This equality of rights is fundamental and fair; not only because it calls for overcoming the over-representation of men in the United Nations' organs and mandates responsible for administering, implementing and developing International Human Rights Law, but because it makes women able to influence the process of affirmation and development of human rights at the global level. This is explicitly contained in article 8 of the Convention on the Elimination of All Forms of Discrimination against Women that says: "State Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations".[46]

---

Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign", IHRLC Working Papers Series No. 4, October 2017, p.11.

[42] Report of the Secretary General "Improvement of the situation of women in the United Nations system", paragraph 83 c i).

[43] Report of the Secretary General "Improvement of the situation of women in the United Nations system", paragraph 83 c ii).

[44] Report of the Secretary General "Improvement of the situation of women in the United Nations system", paragraph 83 d).

[45] Committee DESC. "General Comment No. 16: Equal rights of men and women to the enjoyment of economic, social and cultural rights (Article 3 of the International Covenant on Economic, Social and Cultural Rights), August 11, 2005, paragraph 1.

[46] Similarly, article 7 of CEDAW establishes that "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and

In order to comply with this norm, states must not only refrain from discriminating, but must also adopt affirmative measures to eradicate the barriers that could result in acts of discrimination against women[47] at the time of claiming access, under equal conditions, both *de jure* and *de facto*[48] to positions in international organizations. The CEDAW Committee has recognized that there are few opportunities in which men and women represent their States at the international level on an equal footing[49]. And as we have seen above, this disparity is also reproduced in the composition of United Nations bodies that supervise human rights

As there are a number of opportunities for States to shape the pool of applicants, the composition of any short list and the final composition of the international body[50], these measures involve at least two actions linked to the two moments in which States influence the composition of the organs and procedures of the United Nations. In effect, the States, within the sphere of their internal jurisdiction, must nominate the candidates who will represent them in the international system or whose candidacies they will present to assume certain positions and, then, they must vote for the candidates nominated as part of their functions as members of international organizations[51].

In this way, States should incorporate into their national legal systems selection transparent and open procedures that respect gender parity, as a reasonable criterion based on the application of the principle of non-discrimination[52]. The second measure is to ensure that the final composition of the bodies for which they present candidacies also take into account the objective of achieving a fair and equal representation of women. The question here is that States must exert influence when the rules regulating processes of appointment to positions

perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country". In its General Recommendation Nº 23, the Committee states that the obligation contained in article 7 includes all spheres of public and political life meaning the exercise of legislative, judicial, executive and administrative power and the participation of civil society through distinctive groups and organisations (UN Committee on the Elimination of Discrimination Against Women. General Recommendation Nº 23: Political and Public Life, A/52/38, 1997, para. 5.

47 International Human Rights Clinic of the University of California, Berkeley. "Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign", IHRLC Working Papers Series No. 4, October 2017, p.3. See more: UN Committee on the Elimination of Discrimination Against Women. General Recommendation Nº 23: Political and Public Life, A/52/38, 1997, paras. 38, 43 and 50.

48 UN Human Rights Committee. General Comment Nº 18: Non-Discrimination, U.N. Doc. HRI/GEN/1/Rev.9, 10 November 1989; UN Committee on Economic, Social and Cultural Rights. General Comment 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant), U.N. Doc. E/C.12/2005/3, 11 August 2005; UN Committee on the Rights of Persons with Disabilities. General Comment Nº 3: Article 6: Women and Girls with Disabilities, U.N.Doc. CRPD/C./GC/3, 2 September 2016.

49 UN Committee on the Elimination of Discrimination Against Women. General Recommendation Nº 23: Political and Public Life, A/52/38, 1997, para 38.

50 International Human Rights Clinic of the University of California, Berkeley. "Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign", IHRLC Working Papers Series No. 4, October 2017, p.1.

51 International Human Rights Clinic of the University of California, Berkeley. "Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign", IHRLC Working Papers Series No. 4, October 2017, p.13–15.

52 International Human Rights Clinic of the University of California, Berkeley. "Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign", IHRLC Working Papers Series No. 4, October 2017, p.8.

in tribunals or other organs are adopted to guarantee that they conform to the gender balance requirements of Article 8 CEDAW[53].

Additionally, in this second moment, it is relevant that the international organization itself establishes clear guidelines for the selection process according to, among other criteria, gender parity. If "fair representation" of the sexes is not aspired to or required, women increase their participation in a very low or random way[54]. The absence of fair representation has resulted in a series of civil society initiatives that aim to strengthen these processes[55].

As noted above, the United Nations has generated a series of instruments, resolutions and express appeals to ensure that women access the System on equal terms with men. Also, organizations like the International Criminal Court have an important practice in the selection of judges respecting gender parity[56]. At the regional level, organizations such as the Council of Europe, the Organization of American States or the African Union have adopted various measures to guarantee gender parity or, at least, incorporate the criterion of gender equality in the selection processes[57]. In the context of the Council of Europe, Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights that include some gender balance requirements have been issued[58]. Additionally, the General Assembly of the Organization of American States in 2016 and 2017 underscored gender equality as one of the requirements to be taken into account in the selection of judges to the Inter-American Court of Human Rights and members of the Inter-American Commission of Human Rights[59]. Equally, the African Charter on Human and People's Rights and its Protocol on the Rights of Women in Africa have provisions in the same sense[60] more recently, in January 2016, the Executive Council of the African Union

---

[53] Sarah Wittkopp, Article 8, in The UN Convention on the Elimination of All Forms of Discrimination Against Women, A Commentary, edited by Marsha A. Freeman, Christine Chinkin, and Beate Rudolf, Oxford Commentaries on International Law (2013), at 224.

[54] Nienke Grossman, Achieving Sex-Representative International Court Benches, 110 Am.J.Int'lL. 82 (2016) at p. 82 and Shattering the Glass Ceiling in International Adjudication, 56 Va.J.Int'lL.

[55] An example is the International Geneva Gender Champions initiative launched in July 2015 at http://genevagenderchampions.org or the Gqual Campaign or Gender Parity in International Representation launched in September 2015 at the United Nations in New York at http://www.gqualcampaign.org.

[56] Article 36. Qualifications, nomination and election of judges
Article 8 (a) The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for:
(i) The representation of the principal legal systems of the world;
(ii) Equitable geographical representation; and
(iii) A fair representation of female and male judges.
Furthermore, the Assembly of State Parties created an Advisory Committee on Nominations to the International Criminal Court. Report of the Bureau on the Establishment on ad Advisory Committee on Nominations of Judges of the International Criminal Court, ICC Doc. ASP710/36 (Dec.21, 2011).

[57] It's true that "...at least the acknowledgement of the need to take into account gender balance as one of the requirements of the selection process of new members of international courts and tribunals constitute a step in the right direction". See Claudia Martin, Framework of Article 8 of the Convention on All Forms of Discrimination against Women, Draft Paper presented at the GQUAL Conference, The Hague, October 2017.

[58] Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights, CM (2012)40-add, 29 March 2012 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805cb080.

[59] AG/RES. 2887 (XLVI-O/16), Promotion and Protection of Human Rights, June 14, 2016. In the practice of the last three selection processes, civil society set up a panel of independent experts that evaluates and issues an opinion on the profile of the candidates. Your final report is a good input in the election process but does not constitute a binding element. In the final report of the independent panel for the election of commissioners and commissioners for the Inter-American Commission on Human Rights on June 5, 2017, p. 44 it is recommended that "Given the historical underrepresentation of women and over-representation of men in the Commission and in the Court, at least one candidate should be of the under-represented sex ("under-represented")".

[60] See articles 13 y 18. All citizens shall have "the right of equal Access to the public service of his country" and the "State shall ensure the elimination of every discrimination against women". Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, article 9(2):

also approved the "Decision on the modalities of implementation of the criteria of equitable geographic and gender representation in the organs and institutions of the African Union "which also led to the adoption of" Modalities on the implementation of the criteria of equitable geographical representation and gender in organs and institutions of the African Union"[61].

Finally, it should also be borne in mind that Article 8 of the Charter of the United Nations provides that the organization "shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs". This provision must be broadly understood including the organs of the United Nations system, even if this implies nomination and selection processes in which the States participate.

This development must continue to be strengthened because the participation of women has not reached the expected parity nor will it do so if concrete and sustainable measures are not taken. It should not be ignored that the gender disparities in international institutions undermine the international commitment to equality and non-discrimination[62] and does not reflect the explicit commitment of the United Nations in favor of the full incorporation of women in all its decision-making bodies.

"States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making".

[61] Retrieved from: http://www.acdhrs.org. See Strengthening from Within. Legal framework and practice in the selection of Judges and Human Rights Commissioners. Open Society Justice Initiative and International Commission of Jurists, 2017.

[62] International Human Rights Clinic of the University of California, Berkeley. "Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign", IHRLC Working Papers Series No. 4, October 2017, p.5.

## Annex

# Draft guidelines on gender equality and mainstreaming gender in the work of the Advisory Committee

### Preamble

Recalling the principles and rights set forth in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, article 8 of the Convention on the Elimination of All Forms of Discrimination against Women and other relevant instruments in the field of human rights, and the Beijing Declaration and Platform for Action,

Taking into account resolution 5/1 of 18 June 2007 of the Human Rights Council, which established that gender balance should be taken into account in electing the members of the Advisory Committee, as well as Decision 6/102 of September 27, 2007,

Considering Resolution 6/30 of the Human Rights Council of December 14, 2007, which specifically called upon the Advisory Committee to integrate the gender perspective into its mandate in a regular and systematic manner,

Noting General Assembly resolutions 55/69, 56/127, 57/180, 58/144, 59/164 on the improvement of the status of women in the United Nations System,

Recalling that, through resolution 62/137 of February 2008, the General Assembly requested that the Secretary General join efforts to achieve a gender balance throughout the United Nations system,

Taking into account the report of the Secretary General "Improvement in the Status of Women in the United Nations system" of July 27, 2017,

Considering that, despite the express appeals of the institutions, the tendency of under-representation of women in the organs of the United Nations, in particular, in the Advisory Committee, has not been reversed

Recognizing that it is mandatory to adopt new and better measures to elect candidates in a 50/50 ratio in the Advisory Committee,

*Recommend* the following guidelines:

## I. States

The States should disseminate as widely as possible, including at the national level, the calls for positions in the Human Rights Council Advisory Committee for the purpose of including women or striving for gender parity.

States should strive to establish transparent and participatory national mechanisms that guarantee that women can participate on equal terms at each stage of the process before submitting candidacies to those positions.

## II. Consultative Group

The Consultative Group should include no more than three persons of the same gender in the list of five preselected persons that it prepares to fill vacancies in both treaty and extra-conventional mechanisms. Likewise, no more than two candidacies of the same gender should be included in the final list of three names that is submitted to the President of the Human Rights Council.

## III. Secretariat

The Secretariat should make the widest possible dissemination of the calls to the Advisory Committee. This call should include, in particular, women's organizations and non-governmental organizations that work in the promotion and protection of women's rights.

The Secretariat may extend the deadline or make a new call if there are not enough candidates to guarantee that the lists comply with the figures mentioned in section 2.

## IV. Human Rights Council

The Presidency of the Human Rights Council should take into account the principle of gender parity in all its actions and select as a priority women who meet, on equal terms with men, the requirements to occupy a position in the Advisory Committee.

The Presidency will hold a gender parity report informing it on the gender unbalances occurring in all mandates dependent upon the Human Rights Council.